

APPEAL NO. 040652  
FILED MAY 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 5, 2004. The hearing officer resolved the disputed issues by deciding that: (1) the appellant (claimant) sustained a work-related, but not a compensable low back injury on \_\_\_\_\_; (2) that the respondent (carrier) is relieved of liability for the claimant's work-related low back injury because the claimant failed without good cause to report his injury to his employer by the 30th day after the date of injury; (3) that the carrier is relieved of liability for the claimant's work-related low back injury because the claimant failed without good cause to file a claim for compensation no later than one year from the date of injury; and (4) that the claimant did not have disability. The claimant appealed, arguing that the determinations of the hearing officer are against the great weight and preponderance of the evidence. The carrier responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10); that he had disability as defined by Section 401.011(16); that he timely gave notice to his employer pursuant to Section 409.001; and that he filed his claim of injury within one year of the date of his injury pursuant to Section 409.003. Pursuant to Section 409.004, failure to timely file a claim for compensation, absent a showing of good cause or actual knowledge of the injury by the employer, relieves the carrier and employer of liability for the payment of benefits for the injury. The hearing officer determined that the claimant did not timely file his Employee's Notice of Injury or Occupational Disease and Claim for Compensation (TWCC-41) within one year of sustaining an injury, that he first reported the injury on May 23, 2003, and that he did not have good cause for his failure to report his injury by the 30th day after the date of injury. Conflicting evidence was presented at the CCH on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the issues of compensable injury, timely notice to the employer, and timely filing of the claim are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Chris Cowan  
Appeals Judge